

## Defendants.

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**Civil Action No. CV-11-S-1349-NE**

This case is before the court on defendant’s motion for a protective order and stay of discovery.<sup>1</sup> Defendant asserts that it “should not have to respond to discovery requests regarding claims that are due to be dismissed or even discovery requests which Plaintiff may still propound regarding its claims of patent infringement when the asserted patent may not survive reexamination proceedings.”<sup>2</sup> Accordingly, defendant “requests the Court grant the instant Motion for Protective Order and Stay of Discovery until resolution of [defendant’s] forthcoming Motion to Dismiss Counts II-IV and Motion to Stay Count I.”<sup>3</sup> Plaintiff objected to defendant’s motion, but only on the basis that it was premature because defendant’s motion to dismiss and motion

<sup>3</sup> *Id.*

to stay had not yet been filed.<sup>4</sup> Since the date of plaintiff's response, defendant has filed both a motion to dismiss Counts II, III, and IV of plaintiff's Second Amended Complaint,<sup>5</sup> and a motion to stay Count I of the Second Amended Complaint pending re-examination proceedings before the United States Patent and Trademark Office.<sup>6</sup> As all of the concerns raised in plaintiff's objection now are moot, and also because the court finds the interests of justice and efficiency will be best served thereby, defendant's motion for a protective order and stay of discovery is GRANTED. It is ORDERED that all discovery in this case is STAYED pending a ruling on defendant's motion to dismiss and motion to stay pending re-examination proceedings.

DONE this 14th day of March, 2012.

  
United States District Judge

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<sup>4</sup> See doc. no. 46.

<sup>5</sup> Doc. no. 47.

<sup>6</sup> Doc. no. 49.